

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

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| In the Matter of the Application of |) | |
| |) | |
| HAWAII ELECTRIC LIGHT COMPANY, INC. |) | DOCKET NO. 2017-0122 |
| |) | |
| For Approval of a Purchase Power |) | |
| Agreement for Renewable Dispatchable |) | |
| Firm Energy and Capacity. |) | |
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**TAWHIRI POWER LLC'S
POST-HEARING BRIEF**

AND

CERTIFICATE OF SERVICE

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TO THE HONORABLE PUBLIC UTILITIES COMMISSION OF THE STATE OF
HAWAII:

TAWHIRI POWER LLC (“Tawhiri”), by and through its undersigned counsel, hereby respectfully submits its Post-Hearing Brief pursuant to the Public Utilities Commission of the State of Hawaii’s (“Commission”) Prehearing Conference Order No. 38188 filed on January 19, 2022.

I. INTRODUCTION

On March 1-4 and 7, 2022, the Commission held an Evidentiary Hearing (“Hearing”) on the Application of Hawaii Electric Light Company, Inc.’s (“HELCO”) for the Commission to approve its Amended Power Purchase Agreement (“Amended PPA”) with Hu Honua Bioenergy, LLC (“Hu Honua”). Pursuant to the Commission’s Orders, the issues considered by the Commission at the Hearing were:

1. What are the long-term environmental and public health costs of reliance on energy produced at the proposed facility?
 - a. What is the potential for increased air pollution due to the lifecycle GHG emissions of the Project?
2. What are the GHG emissions that would result from approving the Amended PPA?
3. Whether the total costs under the Amended PPA, including but not limited to the energy and capacity costs are reasonable in light of the potential for GHG emissions.
4. Whether the terms of the Amended PPA are prudent and in the public interest, in light of the Amended PPA's hidden and long-term consequences.¹

Tawhiri's concern in this Docket is that the proposed Hu Honua facility, if brought on-line, will lead to excessive curtailment of other renewable generators and, in particular, its Pakini Nui Wind Farm located near South Point on Hawaii Island. Tawhiri, as a Qualifying Facility² ("QF"), has a Restated and Amended Power Purchase Agreement with HELCO ("RAC"). In accordance with the terms and conditions of the RAC, Tawhiri has reliably provided HELCO with clean renewable energy for the past fifteen ("15") years at a just and reasonable rate to its ratepayers. Tawhiri can provide HELCO with up to 492 MW hours of clean renewable energy every day and historically provides HELCO with approximately 10% of its energy needs.

Even though, Tawhiri is a QF protected under the Public Utilities Regulatory Protection Act of 1978 ("PURPA"), HELCO still curtails Tawhiri when it dispatches its own fossil fuel generators and/or has contractually obligated itself to take energy from "must run" Independent Power Producers (IPP's) because of minimum dispatch requirements embedded in the IPP PPA's. This is despite the fact that many times Tawhiri can provide HELCO with cleaner and less expensive energy. This is clearly not prudent and in the public interest.

¹ Order No. 37910 at 32-33, filed on August 11, 2021 .

² Tawhiri is a Qualifying Facility under 18 Code of Federal Regulations Part 292 and Hawaii Administrative Rules 6-74-3.

Per the Amended PPA, HELCO would purchase approximately 21.5 megawatts (“MW”) of firm capacity from Hu Honua’s biomass facility located on a site in Pepeekeo on Hawaii Island. Additionally, the Amended PPA contains a minimum dispatch of 10MW for the Hu Honua biomass facility. This minimum dispatch of 10MW requires HELCO to run the Hu Honua biomass facility 24/7, 365 days a year during the entire 30 year term of the Amended PPA.³ In other words, HELCO must dispatch the Hu Honua facility at 10 MW even if there is cleaner and less expensive renewable energy available for HELCO to dispatch.

This operational inflexibility agreed to by HELCO means that the Hu Honua Project has the potential to cause curtailment of Tawhiri’s Project, as well as other renewable energy generators, particularly since HELCO refuses to agree to retire its fossil fuel generation to accommodate Hu Honua. At first, HELCO stated that Tawhiri had no reason for concern, but as will be discussed below, HELCO now admits that the Hu Honua Project, with its must-run provision, will indeed cause the curtailment of Tawhiri and other renewable energy generators on the HELCO system.

HELCO also now admits that the price that Hu Honua is requesting in the Amended PPA is **not** appropriate and that **they don’t even need Hu Honua to come on-line**.⁴

Despite these facts, HELCO continues to seek approval of its Amended PPA with Hu Honua to the detriment of Tawhiri, the public interest, and HELCO’s ratepayers.

³ Rebecca Dayhuff Matsushima (“Matsushima”), Recording of Hearing, Hearing Day 1, March 1, 2022, at 01:59:50 – 02:00:20. The only exception is for scheduled maintenance, system constraints, system balancing, and frequency control. See Amended PPA, Exhibit A at 3.3(A)(1)(b).

⁴ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:32:39 – 02:32:55. See also, Robert Uyeunten (“Uyeunten”), Recording of Hearing, Hearing Day 1, March 1, 2022, at 05:02:12 – 05:02:15; 01:47:09 – 01:47:27. See also, Lisa Dangelmaier (“Dangelmaier”), Recording of Hearing, Hearing Day 2, March 2, 2022 at 02:48:12 – 02:48:55

HELCO has had a long and litigious history with the Hu Honua project. HELCO originally had a PPA with Hu Honua for the same project which was the subject of Docket No. 2012-0212.⁵ However, HELCO was compelled to terminate the 2012 PPA with Hu Honua because Hu Honua failed to meet two milestones.⁶ In terminating the 2012 PPA HELCO stated it was compelled to terminate because of Hu Honua's failure to provide adequate assurances that it could perform or had the financial means to perform in the future or otherwise be relied upon as a provider of renewable firm generation on Hawaii Island.⁷ In response to HELCO's termination, Hu Honua filed a Federal lawsuit seeking damages and injunctive relief against HELCO.⁸ Based on a Settlement reached between HELCO and Hu Honua, HELCO agreed to rescind the termination of the 2012 PPA and enter into the A&R PPA with Hu Honua. The lawsuit was administratively suspended until the approval of the Amended PPA is resolved.⁹ In the event that a non-appealable approval of the Amended PPA is not received, there would no longer be any agreement to resolve the claims made by Hu Honua against HELCO.¹⁰ Given this, is HELCO advocating for the public interest and interest of its ratepayers or is it protecting itself from additional litigation by Hu Honua at the expense of the public and its ratepayers?¹¹

⁵ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:03:28 – 02:04:03. See also, HELCO's Prehearing Testimony, T-1 at 6, line 1-5, filed on September 16, 2021.

⁶ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:04:20 – 02:04:49. See also, HELCO's Prehearing Testimony, T-1 at 6, lines 3-6, filed on September 16, 2021.

⁷ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:04:49 – 02:05:15. See also, HELCO's Prehearing Testimony, T-1 at 6, lines 8-10, filed on September 16, 2021.

⁸ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:05:22 – 02:05:56. See also, HELCO's Prehearing Testimony, T-1 at 7, lines 5-7, filed on September 16, 2021.

⁹ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:06:07 – 02:07:18. See also, HELCO's Response to TAWHIRI-HELCO-IR-24a. Hu Honua's Civil Complaint No. 16-00634.

¹⁰ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:06:20 – 02:08:21. See also, HELCO's Prehearing Testimony, T-1 at 7, lines 8-20, filed on September 16, 2021.

¹¹ In response to the federal lawsuit, HELCO stated, "Hu Honua now estimates the project cost has more than doubled to over \$200 million as a result of its own mistakes, which it now apparently expects Hawaii Electric Light's customers to pay." See, www.hawaiitribune-herald.com/2017/05/25/Hawaii-news/helco-hu-honua-settle-federal-lawsuit/.

This is a valid question because, as the Record shows, there are many lingering concerns regarding Hu Honua's project and whether HELCO and Hu Honua, as the Applicant and Developer of the Project, respectively, have failed to meet their burden of proof. As further discussed below, these concerns include, but are not limited to, the following:

1. Hu Honua's project with its 10 MW minimum must run provision will cause renewable generators, such as Tawhiri, to be curtailed if HELCO refuses to displace its fossil fuel fired generation to accommodate this provision. Some of these renewable generators that will be curtailed by Hu Honua would be able to provide energy to HELCO's ratepayers at a lower price;
2. The high price of the Hu Honua Amended PPA, which HELCO admits is inappropriate, will result in higher bills to HELCO's ratepayers throughout the 30 year term of the Hu Honua Amended PPA;
3. HELCO witnesses have testified during the Evidentiary Hearing that Hu Honua is not currently needed.
4. HELCO's and Hu Honua's failure to meet its burden of proof regarding GHG Emissions;
5. Hu Honua makes lots of "commitments" regarding carbon neutrality, but these "commitments" are meaningless without executed letters of intent, memorandum of understanding, or fully funded reserve accounts backing up these "commitments". Financial penalties should also be put in place should Hu Honua not meet their "commitments";
6. Hu Honua Project's impact to the environment and public health in addition to GHG concerns; and

7. Whether Hu Honua can obtain sufficient fuel supply for the 30-year term of the contract without having to source fuel outside of Hawaii.

II. DISCUSSION

A. The Total Costs Under Hu Honua's Amended PPA, Including but Not Limited to Energy and Capacity Costs Are Not Reasonable in Light of the Potential for GHG Emissions.

Hu Honua's "all-in" levelized cost of \$.221/kWhr is based on the assumption the facility will be dispatched at an average of 200,000 MWh a year.¹² However, HELCO's most recent dispatch forecast has Hu Honua at an annual average generation of only 99,300 MWh a year over the 30 year term. The projected cost to purchase power from Hu Honua using this forecast analysis begins at \$.236/kWhr in 2022, but by year 30 of the contract (2051) the price per kWhr drastically increases to \$0.490/kWhr.¹³ HELCO itself admits that ". . . Hu Honua's energy price is higher than other dispatchable resources, in part as the Amended PPA includes a 15% step increase applied after the 6th year of operation."¹⁴ Indeed, because HELCO believed that Hu Honua's proposed price was not appropriate, it did **not** agree to it.¹⁵

It is not in the public interest for HELCO to commit itself to Hu Honua's Amended PPA's high prices for 30 years when currently there are lower cost renewable alternatives available that offer the same or similar attributes as the Hu Honua project. Moreover, as technology advances are made with inverters, even more renewable alternatives will be capable

¹² Exhibit B at 14 to HELCO's Letter Request dated May 9, 2017, filed in Docket No. 2012-0212, but transferred to Docket No. 2017-0177 by the Commission.

¹³ HELCO's 2021 Project Economic and Bill Impact Analysis, submitted in response to PUC HELCO IR-17, filed on November 22, 2021.

¹⁴ HELCO's Response to CA/HELCO-SIR-28a.1. See also, Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022 at 52:32 – 55:11.

¹⁵ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:10:12 – 02:10:20 and 02:32:39 – 02:32:55. See also, HELCO's Prehearing Testimony, T-1 at 7, line 10, filed on September 16, 2021.

of providing similar performance capabilities at prices projected to be even lower than those secured through HELCO's in recently approved PPAs.

i. Lower Cost Renewable Alternatives are Available to HELCO.

Hu Honua's costs are significantly higher than that of HELCO's recently approved PPAs. The costs of the two RDA-PPA projects for Hawaii Island, AES Waikoloa Solar¹⁶ and Hale Kuawehi Solar LLC¹⁷, are \$0.08/kWhr and \$0.09/kWhr, respectively. The two RDA-PPAs demonstrate that HELCO can obtain dispatchable renewable energy whose price is delinked from the price of fossil fuel at a far lower cost than what Hu Honua is proposing. Moreover, due to the BESS component, according to HELCO, the two RDA-PPA projects can provide grid supportive services.¹⁸

This is also true for the recent 8 MW expansion of Puna Geothermal Venture ("PGV").¹⁹ Under the recently approved PGV Amended PPA, the energy charge is between \$0.04 and \$0.07 per kWh²⁰. Even at these price points, according to HELCO, the PGV expansion:

(1) is consistent "with [the] Commission Inclinations, which urge the Companies to seek higher penetrations of lower-cost renewables and to lower fuel costs in existing power plants;" (2) provides "[a]dditional resiliency and portfolio diversity due to location and utilization of geothermal energy; (3) provides "essential grid services as a synchronous source of energy;" (4) provides "[c]apacity available in all hours of the day;" (5) incorporates "enhanced and updated PPA terms, including beneficial minimum dispatch terms, which provide more flexibility to [the] Company and serve to protect the Company and its customers;" (6) provides "[r]educed pricing to customers that is fixed and delinked from

¹⁶ Docket No. 2018-0430.

¹⁷ Docket No. 2018-0432.

¹⁸ "[HELCO]anticipates that it will dispatch the battery energy storage system's stored energy to [its] grid to, among other things, help with ramping towards periods of peak energy demand, offset night-time fossil fuel generation, and assist in grid stabilization subject to discharge limits." See Applications in Docket Nos. 2018-0430 and 2018-0432.

¹⁹ Docket No. 2019-0333.

²⁰ \$0.07 per kWh for all energy purchased up to 227,000 MWh minimum purchase and \$0.04 per kWh for all energy purchased above the 227,000 MWh minimum annual purchase. The 227 MWh minimum annual purchase obligation ends after 18 years, after which the energy charge will be calculated in accordance with the Annual Minimum MWh Dispatch Requirements to determine if Hawaiian Electric is entitled to the reduced Energy Charge for the remaining years. See Docket No. 2019-0333, Order No. 38276 filed on March 16, 2022.

fossil fuels;” (7) reduces “fuel consumption and GHG emissions;” (8) provides “[i]ncreased RPS contributing to the 100% RPS mandate through 2045 and beyond;” (9) decreases “reliance on foreign imported oil;” and (10) reduces “customer exposure to fossil fuel price volatility.”²¹

Indeed, Hu Honua’s proposed cost of generation is even higher than the most recent posting for on-peak avoided cost pricing of \$.161/kWhr, which also makes Tawhiri a lower cost renewable alternative to Hu Honua.²²

During the hearing Hu Honua attempted to show that the on-peak avoided cost varied because of the volatility of the cost of oil and argued that Hu Honua’s pricing was attractive because it was a fixed cost. However, even if Hu Honua’s excessively high pricing is fixed, it remains unattractive because it is not just and reasonable and simply means that the HELCO ratepayers will never realize any relief from these excessively high prices. Moreover, as discussed above, there are other PPA’s whose prices are delinked from the price of fossil fuels, and yet, their prices are significantly lower than Hu Honua’s.

ii. Hu Honua’s Proposed Energy and Capacity Costs Will Mean Higher Bills for HELCO’s Ratepayers.

HELCO and Hu Honua assert that Hu Honua is uniquely positioned to address the State renewable energy goals. Clearly this is not correct. The only thing unique about Hu Honua is its high cost to HELCO’s ratepayers. For example, HELCO’s ratepayers, with the addition of the two RDA-PPAs, will experience a decrease in their bills during the life of the RDA-PPAs.

²¹ Docket No. 2019-0333, Order No. 38276 at 9-10, filed on March 6, 2022, quoting Hawaiian Electric RSOP at 26-27.

²² See, HELCO’s on-peak avoided cost for September filed in Docket 7310. Tawhiri is paid a 4 year rolling average of HELCO’s avoided cost, which equated to \$.1386/kWhr for September on-peak rates.

This is also true with the PGV A&R PPA.²³ According to HELCO, the PGV A&R PPA will save \$7.42 per month in 2022, \$12.74 per month in 2023 , and with further anticipated savings throughout the term of the Amended PPA, to the average monthly bill for a typical residential customer (500kWh) .²⁴ In addition, PGV also offered to permanently waive an existing dispatch threshold under its Current PPA until the 8 MW upgrade goes into service. HELCO estimates that this will save the typical residential customer an additional \$0.45 per month until the 8 MW Upgrade goes into service.²⁵ Furthermore, according to HELCO, curtailment of as-available generators such as Tawhiri's is forecast to go down, not up, with the A&R PPA.²⁶

Contrast this to HELCO's analysis for Hu Honua's Amended PPA which showed that the average monthly bill for a typical residential customer will increase by \$10.97 per month during the entire 30-year term of the Amended PPA.²⁷ This \$10.97 monthly increase to HELCO's typical ratepayer does not include possible adders that HELCO will receive under the Performance Based Ratemaking Docket for adding Hu Honua, thus, the increase may even be more.²⁸ During the hearing HELCO's witness with over 16 years of experience in bill impact analysis testified, that in all of his years he could not recall a project that impacted ratepayers bills with such a significant increase.²⁹

²³ Docket No. 2019-0333.

²⁴ Docket No. 2019-0333 Application at 3, filed on December 31, 2019.

²⁵ Docket No. 2019-0333 Application at 5, filed on December 31, 2019.

²⁶ HELCO's Response to TAWHIRI-HELCO-IR-6 filed on June 8, 2020 in Docket No. 2019-0333.

²⁷ Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022 at 46:19 – 48:19. HELCO's Prehearing Statement of Position at 35, filed on December 21, 2021. See also, HELCO-305, filed on November 22, 2022. When the Amended PPA was approved in 2017, it was based on the HELCO ratepayers seeing a \$2.50 decrease in its monthly bills.

²⁸ Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022 at 01:52:05 – 01:53:32.

²⁹ Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022, at 01:53:53 – 01:56:30.

Additionally, during the hearing HELCO and Hu Honua alleged that nothing has changed since the 2017 approval of the Amended PPA, but that is simply incorrect. Currently, if Hu Honua's Amended PPA is approved, HELCO's ratepayers would be burdened with a significant rate increase during the entire 30-year term of the Amended PPA.³⁰ Per HELCO this was not the case in 2017. HELCO's customer bill impact analysis in 2017 showed the typical residential customer would see a \$2.50 decrease in their bill.³¹ Thus, in comparison between 2017 and today, instead of HELCO's customers experiencing a decrease in their bills with Hu Honua being on-line, they are now seeing a significant increase.³² This difference is also reflected in an additional \$285,746,325 in HELCO's System Revenue Requirements if Hu Honua is brought on-line.³³

Moreover, the Hu Honua Project requires a minimum must-run requirement of 10 MW under normal conditions.³⁴ In other words, HELCO must dispatch the Project at 10 MW or greater capacity at all times, except in emergency situations. This requirement will force HELCO to run Hu Honua and take its more expensive energy, while curtailing more economical renewable units on HELCO's system and/or introduce a number of security constraints that preclude optimal generation economic dispatch.³⁵ This is especially true because HELCO

³⁰ HELCO's Response to TAWHIRI-HELCO-IR-30.

³¹ HELCO's Customer Bill Impact Analysis filed on June 30, 2017.

³² Although, Hu Honua did not dispute HELCO's Bill Impact Analysis in 2017 when it showed a \$2.50 decrease to the average customer's monthly bill, it is now disputing HELCO's Bill Impact Analysis filed on November 22, 2021 asserting that HELCO should not have included projects that have not been approved. When question about this, HELCO's witness, who has been doing modeling for HECO for sixteen years said that to not include these projects would be unreasonable. Recording of Hearing, Hearing Day 1, March 1, 2022, at 01:59:50 – 02:00:20. Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022, at 01:38:28 – 01:39:57. Contrast this to the fact that Hu Honua's witness admitted that when he ran pricing analysis (Hu Honua 701), he did not have any production simulation data. Jonathan Jacobs, Recording of Hearing, Day 3, March 3, 2022 at 01:20:09 – 01:20:51. Therefore, Hu Honua 701 should be totally disregarded.

³³ Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022 at 48:42 – 49:30; 01:48:40 – 01:50:14. See also, HELCO 303, filed on November 22, 2021.

³⁴ Amended PPA at 60 (Section 3.3(b)).

³⁵ Decision and Order No. 31758 at 111, filed in Docket No. 2012-0212 on December 20, 2013.

refuses to retire its existing fossil fuel generators to accommodate Hu Honua. Indeed, HELCO has done no analysis to see if the economics of the Hu Honua project could be improved if it accelerated the retirement of its fossil fuel units.³⁶

During the Hearing, HELCO and Hu Honua testified about Hu Honua's plans to sell excess energy to a 3rd party hydrogen stakeholder at \$0.10/kWh³⁷ and "intends to work with the hydrogen project to make the project economically viable to support green hydrogen efforts and the County of Hawaii."³⁸ In contrast, Hu Honua has made no efforts to lower its prices to HELCO's ratepayers, even though its prices to HELCO are significantly higher than what they are offering the 3rd party hydrogen stakeholder.

Additionally, HELCO testified that it has **not** contacted Hu Honua about a reduction of price to the HELCO's ratepayers even though under normal circumstances it would be entitled to price concessions from Hu Honua when it sells excess energy to a 3rd party, since the Amended PPA was structured to recover the costs to build, operate, and maintain the Hu Honua facility.³⁹

iii. **HELCO's Witnesses Admit that Hu Honua is Not Needed for Reliability and System Security.**

During the hearing, HELCO testified that Hu Honua was not needed for reliability and system security.⁴⁰ Contrary to Hu Honua's allegations, HELCO's witnesses testified that Hu

³⁶ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:38:33 – 02:38:44.

³⁷ Hu Honua 101 at 2.

³⁸ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:13:11- 02:13:21. HELCO's Response to CA/HELCO-IR-61.2 filed on October 21, 2021. See also, Hu Honua's Response to PUC-Hu Honua-IR-47a.

³⁹ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:34:06-02:34:33. HELCO's Response to CA/HELCO-IR-61, 1c., filed on October 21, 2021.

⁴⁰ Uyeunten, Recording of Hearing, Hearing Day 1, March 1, 2022, at 05:02:12 – 05:02:15; 01:47:09 -01:47:27. See also, Dangelmaier, Recording of Hearing, Hearing Day 2, March 2, 2022 at 02:48:12 – 02:48:55.

Honua is not needed for spinning reserves, stability, and regulating reserves to the grid.⁴¹

Moreover, HELCO's recent Adequacy of Supply Reports do not support the need for Hu Honua's energy and capacity.⁴² HELCO has admitted that they are not projecting an increase in load. HELCO's Sales Forecast shows that its sales will decrease for the years 2021-2037. Indeed, for some years, the sales forecast is down by approximately 5%.⁴³ Therefore, even though the Record shows that HELCO does not need additional grid services, energy, and capacity, HELCO's ratepayers will be forced to pay for all of these if Hu Honua is brought on-line.

HELCO's Customer Bill Impact Analysis shows that if Hu Honua is brought on-line the average monthly bill for a typical residential customer will increase by \$10.97 per month during the entire 30-year term of the Amended PPA is based on estimated sales.⁴⁴ However, if the estimated sales are lower, it will result in even higher increases for the HELCO ratepayers.⁴⁵ Moreover, since HELCO must dispatch Hu Honua at a minimum of 10 MW, if lower sales forecast materialize, this will result in additional curtailment of other renewable energy generators on the HELCO system,⁴⁶ which will further exacerbate ratepayer costs if these displaced renewables are being paid less than even the lowest of Hu Honua's pricing projections of \$.221/kWhr.

⁴¹ Dangelmaier, Hearing Day 2, March 2, 2022, 02:48:12 – 02:48:55. HELCO also testified that if there were need for some of those services, Hu Honua alone could not meet all of these needs and other generators would be needed. Dangelmaier, Hearing Day 2, March 2, 2022, 02:51:11 – 02:51:20.

⁴² CA-ST-1 at 10.

⁴³ Docket No. 2020-0189, Attachment 2 to Exhibit 3 to Application.

⁴⁴ HELCO's Prehearing Statement of Position at 35, filed on December 21, 2021. See also, Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022, at 01:22:05 – 01:22:27.

⁴⁵ Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022, at 01:23:25 – 01:23:32.

⁴⁶ Danglemaier, Hearing Day 2, March 2, 2022, at 02:59:55 – 03:00:00.

Commission precedence has held that when HELCO's renewable energy generation output is in excess of the statutory 40% level, for any new generation project, HELCO must demonstrate that the project provides cost reduction benefits to ratepayers, directly or indirectly, by improving and maximizing integration of additional lower cost renewable energy.⁴⁷ Clearly, this is not the case with Hu Honua and, thus, the Amended PPA should not be approved.

iv. HELCO's and Hu Honua's Have Failed to Meet Their Burden of Proof on the Potential for GHG Emissions.

During the Hearing, HELCO and Hu Honua were dismissive of the concerns raised by the Consumer Advocate and the Participants and alleged that the Consumer Advocate and Participants have failed to show that the GHG analysis is not credible. However, the burden of proof lies with HELCO and Hu Honua, as the Applicant and developer, respectively, in the instant Docket. The Record plainly shows that HELCO and Hu Honua have not met this burden.

On September 16, 2021, HELCO filed its updated Green House Gas ("GHG") Analysis as HELCO-501.⁴⁸ The updated GHG Analysis was done by HELCO's consultant, Ramboll US Consulting ("Ramboll"), who as part of its analysis calculated the Avoided GHG analysis. However, Ramboll did not perform the Project's GHG analysis that is included in HELCO's updated GHG Analysis, it was done by a consultant retained by Hu Honua. Hu Honua's consultant, Environmental Resource Management's ("ERM") Project's GHG analysis was then inserted into the updated GHG Analysis submitted by HELCO.⁴⁹ This piecemeal approach is different than what HELCO has previously done in prior dockets in which Ramboll also

⁴⁷ Docket No. 2012-0212, Decision and Order No. 31758 at 121, filed on December 20, 2013. See also, Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022, at 01:50:23 – 01:51:18.

⁴⁸ An additional analysis was filed on November 29, 2021 as Attachment 3 to HELCO's Response to PUC-HELCO-IR-17. The additional update was done because of the withdrawal of HELCO's Application for the approval of PPA with Puako Solar, Docket No. 2020-0189.

⁴⁹ HELCO Testimony T-4 at 1, lines 10-19.

performed the project GHG analysis on behalf of HELCO.⁵⁰ The fact that HELCO did not retain Ramboll to do all of the analysis is inappropriate and raises many red flags in regards to the credibility and validity of the updated GHG Analysis and the Net GHG Emissions calculated.

For example, the analysis done by Ramboll does not include estimated GHG emissions for sequestration, while ERM's analysis does.⁵¹ Additionally, the production simulation used by HELCO contains assumptions that Hu Honua finds questionable.⁵²

Moreover, the updated GHG Analysis is flawed because it assumes that Hu Honua will only displace fossil fuel units⁵³ which is contrary to the position of HELCO. HELCO has made no commitments to retire any of the existing fossil fuel units on its system if Hu Honua comes on-line⁵⁴ and has conceded many times that “there may be times that high renewable intermittent energy supply cannot be completely taken by the system, due to Hu Honua’s continuous operation and minimum dispatch load of 10 MW. This additional must run generation, associated with the Hu Honua Project, may reduce the amount of renewables that can be integrated into the grid during low net-load periods.”⁵⁵

Also, Hu Honua-402 did **not** include an examination and analysis of the impacts the Memorandum of Understanding (“MOU”) between Hu Honua and H₂ Energy in which Hu Honua proposes to provide up to 8.5 MW of “excess energy”.⁵⁶ This is despite the fact that Hu

⁵⁰ See, PUC-HELCO-IR-18a.

⁵¹ HELCO’s Response to PUC-HELCO-IR-20.

⁵² Hu Honua Testimony T-1, p.21, lines 17-23.

⁵³ Hu Honua’s Response to CA/Hu Honua-SIR-54b. filed on Nov. 18, 2021. See also, HELCO T-5 at 12.

⁵⁴ HELCO Exhibit 301 submitted in response to PUC-HELCO-IR-17 filed on November 22, 2021 shows the removal of Puna Steam in 2025 and Hill 5&6 in 2027. However, the removal of these units is independent of Hu Honua coming on-line. HELCO’s Response to CA/HELCO-SIR-38.

⁵⁵ HELCO’s Response to CA/HELCO-IR-60a. Also, see Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:12:23 – 02:12:45.

⁵⁶ Warren Lee, Recording of Hearing, Hearing Day 2, March 2, 2022, at 06:56:55 – 06:57:58. See also, Hu Honua’s response to CA/Hu Honua-IR-115b, filed on October 21, 2021.

Honua admitted during the hearing that the excess energy from the MOU will increase Honua's upstream GHG emissions.⁵⁷

We must follow the science. In a May 8, 2020, 189 Forest and Climate Change Scientists and Experts sent a letter to the United States Congress opposing “proposals that would promote logging and wood consumptions, ostensibly as a natural climate change solution, based on claims that these represent an effective carbon storage approach, or claims that biomass logging, and incinerating trees for energy, represents renewable, carbon-neutral energy.”⁵⁸ The Forest and Climate Change Scientists and Experts opined:

The growing consensus of scientific finds is that, to effectively mitigate the worst impacts of climate change, we must not only move beyond fossil fuel consumption but also substantially *increase* protection of our native forests in order to absorb more CO₂ from the atmosphere and store more, not less, carbon in forests.

...the scientific evidence does not support the burning of wood in place of Fossil fuels as a climate solution. **Current science finds that burning trees for energy produces even more CO₂ than burning coal, for equal electricity produced, and the considerable accumulated carbon debt from the delay in growing a replacement forest is not made up by planting trees** or wood substitution. We need to increase growing forests to more rapidly close the gap between emissions and removal of CO₂ by forests, while we simultaneously lower emissions from our energy, industrial and agricultural sectors.⁵⁹

Other experts have concurred, stating that:

A molecule of CO₂ emitted today has the same impact on radiative forcing whether it comes from coal or biomass. Biofuels can only reduce atmospheric CO₂ over time through post-harvest increases in net primary production (NPP)... Because combustion and processing efficiencies for wood are less than coal, the immediate impact of substituting wood for coal is an increase in atmospheric CO₂ relative to coal. The payback time for this carbon debt ranges from 44-104 years after clearcut, depending on forest type-assuming the land remains forest. Further, projected growth in wood

⁵⁷ David Weaver (“Weaver”), Recording of Hearing, Hearing Day 2, March 2, 2022, at 04:04:50 - 04:05:21.

⁵⁸ <https://www.documentcloud.org/documents/6889670-Scientist-Letter-to-Congress-8May20.html>. Letter is also attached to Tawhiri's Prehearing Statement of Position as Exhibit “A”, filed on December 21, 2021.

⁵⁹ Ibid. (Citations omitted.)

harvest for bioenergy would increase atmospheric CO₂ for at least a century because new carbon debt continuously exceeds NPP.⁶⁰

Clearly, the consensus among the Experts is that the burning of trees for energy production is not good for the environment and indeed is worse than burning coal. Hu Honua's technology would be a giant leap backwards for Hawaii in meeting its 100% renewable goals.

v. **Hu Honua's "Commitments" on Carbon Neutrality are Worthless, Unless there is Accountability and Consequences.**

Throughout this Proceeding Hu Honua has asserted it has made "commitments" regarding Carbon Neutrality. However, many of Hu Honua's so called "commitments" lack adequate planning, lack written documentation from third party stakeholders, and/or lack firm financial commitments by Hu Honua. When this is the case, "commitments" turn into empty promises that have no value. This is especially true when there is no accountability and firm financial consequences if "commitments" are **not** kept.

It was clear during the hearing that Hu Honua has no firm plans regarding how to meet their carbon "commitments". When asked to explain what it meant when it responded that it would "ensure that it has funds to purchase carbon offsets by employing acceptable management principles"⁶¹, Hu Honua testified that its "common to have a reserve account", it was "reasonable", "probably could do, if necessary", "it would have to be for a reasonable amount", but stated that Hu Honua "didn't want to go there".⁶² In other words, Hu Honua evaded the

⁶⁰ <https://iopscience.iop.org/article/10.1088/1748-9326/aaa512/pdf>. (Emphasis added.) Also attached to Tawhiri's Prehearing Statement of Position as Exhibit "B", filed on December 21, 2021.

⁶¹ Hu Honua's Response to PUC-Hu Honua-IR-34g., filed on October 29, 2021.

⁶² Lee, Recording of Hearing, Hearing Day 2, March 2, 2022 at 07:33:11 – 07:34:20.

question and made no commitments for Hu Honua to establish a reserve account or an amount to be deposited in the Reserve Account.

Later in the hearing, Hu Honua, in an attempt to rehabilitate itself, testified that it would commit to \$100,000 in feed money.⁶³ However, based on Hu Honua's own estimate of \$15/ton for carbon offsets, this \$100,000 would only pay for a fraction of the 30,000 tons of carbon offsets that they have committed too.⁶⁴ Hu Honua attempted to deflect by claiming that the \$100,000 was seed money and that they would be contributing annually to the reserve account, however, when asked if Hu Honua had given any thought to funding the whole amount now, Hu Honua refused to commit to this.⁶⁵

Hu Honua also evaded the question when asked about a penalty mechanism to cure a scenario in which Hu Honua has not met its carbon negative by the year 2035 or in any subsequent years.⁶⁶ Although, Hu Honua stated that it did believe that a penalty mechanism was appropriate⁶⁷, when asked at the Hearing who it would pay the monetary penalty to, Hu Honua testified, "that's a good question" and then proceed to give various scenarios where they could pay the State Department of Land and Natural Resources or traditional markets, noting that this was all hypothetical. Hu Honua concluded by saying, "don't see it happening."⁶⁸ In other words, Hu Honua has no idea how this penalty mechanism would be implemented.

Third, when Hu Honua was asked how any disagreements between carbon commitments would be resolved, it first testified "maybe with the PUC", but then said, maybe the "Department

⁶³ Jon Miyata ("Miyata"), Recording of Hearing, Day 3, March 3, 2022 at 27:07 – 27:29. It is also interesting to note that the \$100,000 to the reserve account was only brought up during the Hearing and was not included in Hu Honua's Pre-Hearing Testimonies filed on September 16, 2021.

⁶⁴ Miyata, Recording of Hearing, Day 3, March 3, 2022 at 36:54 – 37:36.

⁶⁵ Miyata, Recording of Hearing, Day 3, March 3, 2022 at 38:17 – 38:49.

⁶⁶ PUC-Hu Honua-IR-46d.

⁶⁷ Hu Honua's Response to PUC-Hu Honua-IR-46d., filed on December 1, 2021.

⁶⁸ Lee, Recording of Hearing, Day 2, March 2, 2022 at 07:41:10 – 07:45:26.

of Health”. Finally, Hu Honua admitted it wasn’t exactly sure what the mechanisms would be. Again, Hu Honua has no idea how disagreements about carbon commitments would be resolved.

Fourth, when Hu Honua was asked about the MOU with the State on invasive species disposal and mitigation efforts, Hu Honua admitted that no MOU had been signed.⁶⁹

Fifth, when Hu Honua was questioned about its lack of information on their infrastructure to harvest feedstock. Hu Honua testified that this was the State’s responsibility, and that past Legislatures have appropriated millions of dollars for albizia eradication. Hu Honua went on to testify that, “All the details need to be worked out”, “Devil is in the details”, “Really good question”, and “Still in bushes versus in the hand”.⁷⁰ Again, Hu Honua is clueless regarding its infrastructure to harvest feedstock or is banking on non-existent subsidies from the State. In other words, Hu Honua wants to add even more costs to the ratepayers (and residents of the State).

In order for Hu Honua’s asserted “commitments” to have any value, they must be linked with firm financial commitments to guarantee that their “commitments” are kept. Unfortunately, Hu Honua has a history of not being able (or willing) to perform, have the financial means to perform, or otherwise be relied upon as a provider of firm renewable electrical generation on Hawaii. We need look no further than the original PPA in which HELCO had to terminate because of Hu Honua’s failure to meet its contractual milestones.⁷¹

⁶⁹ Miyata, Recording of Hearing, Day 3, March 3, 2022 at 39:18 – 41:45. See also, Hu Honua-201 filed on September 16, 2021.

⁷⁰ Lee, Recording of Hearing, Hearing Day 1, March 2, 2022 at 08:11:29 – 08:13:16.

⁷¹ Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022 at 02:04:20 – 02:05:15. See also, HELCO T-1 at 6, lines 3-5, 8-10, filed on September 16, 2021.

B. The Terms of Hu Honua's Amended PPA Are Not Prudent and in the Public Interest, in Light of the Amended PPA's Hidden and Long-Term Consequences.

The terms and conditions of the Amended PPA are not prudent or in the public interest, considering the Amended PPA's hidden and long-term consequences. It cannot be emphasized enough that the Amended PPA has a 30-year term.⁷² Thus, if the Amended PPA is approved, the ratepayers of HELCO and the residents of Hawaii will have to live with the long contract term and the dire consequences of running Hu Honua until at least 2052.

The consequences of approving the Amended PPA will affect the legacy that we leave for our children. The question is: Do we want to leave our children with the opportunity to be 100% renewable and live in a clean environment or do we want to burden them with a biomass plant that will raise the cost of electricity even higher on Hawaii, will destroy our forests when we most need them to help alleviate GHG's, pollute our environment, and creates an inflexible barrier for other, cleaner forms of renewable energy?

i. Hu Honua's 10 MW Minimum Dispatch in the Amended PPA is Not in the Public Interest because it Will Result in the Curtailment of Existing and New Renewable Resources.

Tawhiri has long maintained that the approval of the Amended PPA is not in the public interest and, thus, should not be approved by the Commission. This is even more true today with Hawaii Island's current energy market and the rates that HELCO has been able to obtain during recently approved PPAs. In today's energy market the utility needs flexibility to maintain its grid and to integrate higher levels of variable renewable generation. The era of 24/7 baseline units is outdated. Today's cleaner modern electrical grid needs flexibility.

⁷² Amended PPA. The Amended PPA also allows for an extension of 24 months without Commission approval.

The Amended PPA states that the Hu Honua Project will have a minimum dispatch level of 10 MW and a maximum of 21.5 MW.⁷³ Thus, even if there is less expensive renewable energy alternatives available to HELCO, HELCO must still dispatch Hu Honua at 10 MW minimum, 24 hours a day, seven days a week unless system constraints, system balancing and frequency control require HELCO to dispatch Hu Honua at lower loads.⁷⁴ This operational inflexibility of the Hu Honua Project will lead to the displacement of existing and/or future renewable energy supplies that are more economical to run.⁷⁵

HELCO has admitted, “there may be times that high renewable intermittent energy supply cannot be completely taken by the system, due to Hu Honua’s continuous operation and minimum dispatch load of 10 MW. This additional must run generation associated with the Hu Honua Project may reduce the amount of renewables that can be integrated into the grid during low net-load periods.”⁷⁶ “Any resource with a minimum must-take will need to be operated ahead of lower-cost energy up to the must run amount, and therefore any must-run constraint will limit cost optimization.”⁷⁷

During cross-examination, HELCO went even further and stated that with Hu Honua’s minimum dispatch it is **impossible** for HELCO **not** to displace other units.⁷⁸ HELCO also admitted that per their analysis, more units were displaced with the addition of Hu Honua.⁷⁹

⁷³ HH’s Response to Tawhiri-Hu Honua-IR-43.

⁷⁴ Amended PPA.

⁷⁵ This problem is compounded because PGV has a 23.9 MW must take requirement. See, Christopher Lau, Recording of Hearing, Hearing Day 1, March 1, 2022 at 03:10:50 – 03:11:54.

⁷⁶ HELCO’s Response to CA/HELCO-IR-60a, filed on October 21, 2021. Also, see Matsushima, Recording of Hearing, Hearing Day 1, March 1, 2022, at 02:01:48 – 02:03:19.

⁷⁷ HELCO’s Response to PUC-HELCO-IR-21, filed on December 1, 2021. See also, HELCO’s attachment 1.xlsx in response to TAWHIRI-HELCO-IR-39(h) showing the increase in curtailment of “Wind1”.

⁷⁸ Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022, at 01:27:43 – 01:29:11; See also, HELCO’s Response to CA/HELCO-SIR-26c.1. filed on November 18, 2021. (Emphasis added.)

⁷⁹ Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022, at 01:35:09 – 01:36:08. See also, HELCO’s Response to CA/HELCO-SIR-36b. filed on November 18, 2021.

HELCO's own analysis shows some 579 GWHrs of renewable energy will be curtailed during the 30 years Hu Honua will be in operation, 300 GWHrs of which will be from as-available generators such as Tawhiri's.⁸⁰ This is almost three full years of production from the Pakini Nui wind farm. Moreover, HELCO admitted that Hu Honua is more expensive to dispatch than most units.⁸¹

Thus, if Hu Honua is permitted to come on-line, it will lead to the curtailment of renewable resources, such as Tawhiri, and will hinder the integration of new renewable resources on the HELCO System. As HELCO has clearly shown in its Curtailment Chart, the curtailment of energy with Hu Honua on-line will increase over 10 times.⁸² Simply put, Hu Honua's minimum dispatch makes it impossible to ensure that no renewable resource energy output will not be displaced by it.⁸³

ii. **Hu Honua Will Not Lead to the Retirement of HELCO's Existing Fossil Fuel Units.**

HELCO's GHG Analysis assumes that the Hu Honua project will only displace HELCO's existing fossil fuel plants, however, HELCO has made no commitments to retire its existing fossil fuel plants if the Commission approves the Hu Honua Project.⁸⁴ Indeed, HELCO has done no analysis to determine if its fossil fuel units can be retired.⁸⁵ What HELCO has

⁸⁰ HELCO's Response to TAWHIRI-HELCO-IR-3 and 20, filed on December 9, 2019.

⁸¹ Uyeunten, Recording of Hearing, Hearing Day 2, March 2, 2022, at 01:35:09 – 01:36:08.

⁸² See HELCO's Attachment 9 to its Response to PUC-HELCO-IR-13, filed on July 11, 2017. (Tawhiri requested additional and updated information in TAWHIRI-HELCO-SIR-13, but HELCO responded with references to its responses to CA/HELCO-IR-66, CA/HELCO-IR-68, and CA/HELCO-IR-78 which provided only information that HELCO designated as Restrictive and Confidential.)

⁸³ HELCO's Response to CA/HELCO-SIR-26c.1. See also, HELCO's response to TAWHIRI-HELCO-SIR-15a, in which it stated affirmatively that if Hu Honua is placed into service other generating resources, such as existing fossil fuel plants and renewable wind, PV, hydro and geothermal energy resources, and future generating resource additions (including biodiesel) would be displaced because of Hu Honua.

⁸⁴ HELCO Exhibit 301 submitted in response to PUC-HELCO-IR-17, filed on November 22, 2021, shows the removal of Puna Steam in 2025 and Hill 5&6 in 2027. However, the removal of these units is independent of Hu Honua coming on-line. HELCO's Response to CA/HELCO-SIR-38.

⁸⁵ Matsushima, Record of Hearing, Hearing Day 1, March 1, 2022, at 02:38:33 -02:38:44.

admitted to, however, is that Hu Honua would lead to the displacement of existing renewables, such as Tawhiri.⁸⁶ HELCO has also admitted that it is possible that it will dispatch its fossil fuel units before Hu Honua because of economic reasons.⁸⁷

iii. It is Unclear Whether or Not Hu Honua will have Sufficient Fuel Supply.

The viability of the proposed Hu Honua plant is questionable because of the lack of evidence in the Record to prove that it will have enough feedstock for the term of the Amended PPA. The term of Amended PPA is 30 years, but the Amended PPA only requires Hu Honua to have a 37-day supply of fuel. During discovery, Hu Honua asserted that it has contracted for harvestable feedstock to provide fuel supply for approximately nine and a half years,⁸⁸ but has no firm commitments for the remaining term of the Amended PPA.

During the Evidentiary Hearing Hu Honua testified that they were talking to a Hamakua Coast landowner to acquire an additional 5,500 acres of eucalyptus, but refused to identify the purported landowner.⁸⁹ Even if the purported landowner agreed to selling the 5,500 acres of eucalyptus, Hu Honua admits that this would only help keep the plant running for an additional five to seven years.⁹⁰ Simple arithmetic tells you that even if this additional 5,500 acres of eucalyptus is obtained, Hu Honua still only has enough fuel supply for 16 years ($9 + 7 = 16$ and that's counting on the high end of Hu Honua's guesstimate.) The term of the Amended PPA is for 30 years and, thus, Hu Honua is still 14 years short of fuel supply.

Hu Honua argues that it is unfair for the Commission to expect it to have 30 years of fuel supply and that no other IPP has been required to have a contract for fuel for the entire term of its

⁸⁶ Supra., fn. 56 and 77.

⁸⁷ Matsushima, Record of Hearing, Hearing Day 1, March 1, 2022, at 01:11:11- 01:11:19.

⁸⁸ Hu Honua's Response to PUC-Hu Honua-IR-48b.

⁸⁹ Honolulu Civil Beat, March 14, 2022.

⁹⁰ Honolulu Civil Beat, March 14, 2022.

PPA. This is not an accurate statement. In HECO's recent RFP for firm generation, HECO is requiring all proposals operating on fuel commit to providing the fuel for the entire term of the firm PPA and include any and all costs of the fuel for the entire term of the firm.⁹¹

Moreover, Hu Honua's supply of feedstock may be affected by its proposal to sell excess energy to H₂ Energy. When specifically asked at the hearing how the selling of energy to H₂ Energy would affect its feedstock supply, Hu Honua said it didn't know.⁹² But, it is logical to presume that if Hu Honua generates more energy in order to sell the H₂ Energy it will require more feedstock, thus requiring more feedstock to be available to meet their commitments to HELCO. This was confirmed by Hu Honua.⁹³

According to the Experts on Climate Change, in order for biomass to be sustainable, the rate of harvest must not exceed the rate of forest growth.⁹⁴ Given the fact that Hu Honua has no firm commitments for fuel supply for the term of the Amended PPA raises serious questions as to whether it will have sufficient fuel supply and whether that fuel supply will be sourced in Hawaii and in an environmentally friendly manner.

iv. Neither HELCO nor Hu Honua Address Other Public Health and Environmental Issues.

Tawhiri shares the concerns expressed by the Climate Change Experts and Division of Consumer Advocacy in its Testimony, CA-ST-4. Specifically, "[w]hen forest products are used as feedstock, the use of those products can result in the carbon emissions even greater than that of coal burning facilities, [sic] with land and climate impacts lasting well over a hundred

⁹¹ HECO's proposed draft version of an O'ahu Renewable Dispatchable Firm Request for Proposals, Exhibit 1 at 5. Filed with the Commission on February 28, 2022.

⁹² Warren Lee, Recording of Hearing, Hearing Day 2, March 2, 2022, at 06:48:31 - :06:48:43.

⁹³ Lee, Recording of Hearing, Day 2, March 2, 2022 at 06:52:57 – 06:54:07.

⁹⁴ Supra. fn. 27, 28.

years,”⁹⁵ These public health and environmental impacts have not been addressed by either HELCO or Hu Honua.⁹⁶ Until the Record is made on these issues, the approval of the Amended PPA should not be approved.

iv. **Potential Jobs for a Few, High Rates, Public Health Risk, and Destruction of Environment for Many.**

Hu Honua likes to assert that their project will create 197 new jobs for Hawaii Island, but it neglects to mention that it will raise the electricity rates of the approximate 85,000 ratepayers of Hawaii. Thus, even if we accept Hu Honua’s claim of 197 new jobs, it is outweighed by the remaining approximate 84,803 ratepayers that will receive no benefits. Instead, these remaining approximate 84,803 ratepayers will be burdened with higher electricity rates, potential public health risks, and the possible destruction of their environment from the Hu Honua project for at least a generation.

v. **Hu Honua Should Not get Preferential Rates for Agricultural Activity Outside of Hawaii.**

Hu Honua admits that it may not be able to obtain all needed feedstock from Hawaii agricultural activity. Despite this fact, it is requesting preferential rates pursuant to HRS § 269-27.3. To provide Hu Honua with preferential rates for its non-Hawaii agricultural activities is inconsistent with the legislative intent. Act 185 in its preamble clearly articulates the legislative intent to encourage in-State agricultural activities. It states,

. . .the Hawaii Constitution identifies increased agricultural self-sufficiency as being in the public interest. The legislature also finds that renewable energy creates the maximum benefit to the State when it is **locally produced**. . . It is in the interest of the State to encourage the synergy between agricultural production and renewable energy production.⁹⁷

⁹⁵ CA-ST-4 at 2, citing William Strass and Laurenz Schmidt. A look at the Details of CO2 Emissions from burning Wood vs. Coal.

⁹⁶ See HELCO’s Response to PUC-HELCO-IR-23, filed on December 1, 2022.

⁹⁷ L 2009, c185. (Emphasis added.)

Thus, the intent of the Legislature was to encourage agricultural activity in the State, not outside of the State.

This is further demonstrated in the Legislature's language in its Committee Report. "Your Committees find that this is a critical juncture **for agriculture in Hawaii**. . ."⁹⁸ "Your Committee finds that **this measure will assist the State in achieving its goals** of increased energy self-sufficiency and **increased agricultural sustainability**."⁹⁹ The Legislature did not intend to have preferential rates for agricultural activities that occurred out of the State.

III. CONCLUSION

The Record in this Docket clearly demonstrates that HELCO and Hu Honua, as the Applicant and Developer, respectively, in the instant Application has failed to meet its burden of proof on the issues in this Docket.

The minimum dispatch requirement of 10 MW in the Amended PPA will lead to the curtailment of existing and future renewable resources that may be lower in price and environmentally cleaner. This fact, alone, should disqualify the approval of the Amended PPA.

However, Tawhiri believes that every project should have a fair chance to be fully vetted against competing projects.¹⁰⁰ Therefore, Tawhiri would respectfully recommend that the Commission deny HELCO's Application for approval of its Amended PPA with Hu Honua and instead recommend Hu Honua submit their project to the Phase 3 RFP. Clearly, this is a viable solution since HELCO itself acknowledged that it "is not aware of any reason why the entity Hu

⁹⁸ L2009, STAND. COM REP. NO. 941. (Emphasis added.)

⁹⁹ L2009, STAND. COM REP. NO. 941. (Emphasis added.)

¹⁰⁰ The Hu Honua project has never been fully vetted and has never participated in competitive bidding pursuant to the Competitive Bidding Framework.

Honua Bioenergy LLC would not be eligible to submit a proposal in response to the Stage 3 RFP that was recently launched for Hawaii island. Further, as the Stage 3 RFP provides for the submission of firm generation projects, the entity could, in theory, submit the existing biomass project that is the subject of this docket as a potential project in response to the Stage 3 RFP.”¹⁰¹

Alternatively, if the Commission is inclined to approve the Amended PPA, it should approve it with conditions. The first condition should be that HELCO does not curtail existing renewable generators, such as Tawhiri, to take energy from Hu Honua. The second condition should be that HELCO and Hu Honua negotiate a more just and reasonable price for its energy and capacity that will be more in line with the current energy market on Hawaii Island and more palatable for HELCO’s ratepayers. Just as Hu Honua stated that “it intends to work with the hydrogen project to make the project economically viable to support green hydrogen efforts and the County of Hawaii”¹⁰², Hu Honua and HELCO should make the same efforts to make its project economically viable to HELCO ratepayers. Finally, the third condition should be that Hu Honua fully fund the Reserve Account to cover its commitment of 30,000 tons of carbon offsets.

Respectfully submitted.

DATED: Honolulu, Hawaii, March 29, 2022.

/s/ Sandra-Ann Y.H. Wong

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¹⁰¹ HELCO’s Response to CA/HELCO-SIR-27.

¹⁰² Supra. fn. 39.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Post-Hearing Brief of Tawhiri Power LLC
was duly served electronically on each of the following parties:

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